

Serial No.: 10/527,125  
Art Unit: 2425Docket PUU20419  
Customer No. 24498Remarks/Arguments

Applicants have carefully reviewed the Office Action mailed November 24, 2009. Claims 1 and 3-15 and 17-22 remaining pending in this application. Applicants request reconsideration of the above-identified application, as herein amended and in view of the following remarks.

Allowable Subject matter

Applicants acknowledge, with thanks, the indication of allowable subject matter in the present application, specifically, claims 4-9 and 18 21 have been indicated as allowable if rewritten in independent form.

Claim objections:

Applicants note the objection to claim 16 which has now been listed as cancelled. Withdrawal of this rejection is respectfully requested.

Claim Rejections:

Claims 1 and 10-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Aharoni et al. (US Patent 6,014,694) in view of Kukic (US Published Application No. 2003/0169780).

In asserting this rejection, the Examiner reiterates that Aharoni et al. discloses the "generating at least two different bit rate representations of each program" (citing Col. 3, lines 9-17). In the previous office actions (dated July 9, 2008 and January 28, 2008), the Examiner made the identical assertion that independent Claims 1 and 10 were anticipated by the teachings of Aharoni et al.

At the beginning of this office action, the Examiner stated that applicants' Appeal Brief filed January 7, 2009 with respect to the rejections of claims 1, 3, 10-15, 17 and 22

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has been considered and has been found persuasive, whereupon the examiner has withdrawn the previous 102(b) rejection based on Aharoni et al. However, the Examiner has now cited Kukic in an effort establish a *prima facie* case of obviousness for claims 1 and 10. However, as discussed hereinafter, the Kukic reference does not cure the previously cited deficiencies of Aharoni et al. In particular, Kukic does not cure the failure of Aharoni et al to disclose or suggest the claimed concept of "generating at least two different bit rate representations of each program".

Applicants will not reiterate their previous arguments regarding the failure of Aharoni to generate least two different bit rate representations of each program. Rather, applicants maintain that Aharoni further fails to disclose or suggest the claimed feature of:

providing control information at each of a plurality of successive time windows T for each representation of each program, the control information for each successive window indicating a bit rate and quality measure for a representation of a corresponding program;

as set forth in independent claims 1 and 10. In fact, referring to the Final office action dated July 9, 2008, the Examiner dismisses this aspect of applicant's claimed invention by citing Col. 2, lines 29-43, Fig. 10, Col 7, lines 1-4 and Col. 6, line 61 – col. 7 line 6 of Aharoni. However, in reviewing these cited portions of Aharoni, applicants cannot find any discussion of the providing of control information at each of a plurality of successive time windows T for each representation of each program. For purposes of discussion, applicants will assume the correctness of the Examiner's interpretation of Aharoni as it relates to the depiction in Figures 5-7 of the varying levels of the key frame, B frame and P frame, (corresponding to applicant's claimed "generating of at least two different bit representations of each program"). Applicants still believe it is impossible to interpret Aharoni as "providing control information at each of a plurality of successive time windows T for each representation of each program". In fact, at Col. 10, lines 13 – 48, Aharoni states "The video server determines for each GOP the appropriate level of data to send to the client. Once a video quality level is chosen by the video server, it is used for the entire GOP, adjacent GOPs can be comprised of different level data, however, data of different levels cannot be sent with a GOP."

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Thus, Aharoni et al. does not provide control information at each of a plurality of successive time windows T for each representation of each program, as set forth by the independent claims 1 and 10 as originally presented. In fact, Aharoni et al. clearly teaches that the video server makes a determination as to the video quality level and once determined, the server uses this determination for the entire GOP. However, Aharoni et al. contains no disclosure or suggestion that such a determination is based on control information provided to the video server and which in particular relates to each of a plurality of successive time windows T for each representation of each program. Therefore, Aharoni fails to disclose or suggest this feature of claims 1 and 10, and as such the combination of the same with the teachings of Kukic again fails to render obvious applicant's claimed invention.

Claims 3 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Aharoni et al. (USP 6,014,694) in view of Kukic (US Published Application No. 2003/0169780) in further view of Shang et al. (US PG Pub No. 2002/0010938). Claims 14-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Aharoni et al. (USP 6,014,694) in view of Kukic (US Published Application No. 2003/0169780) in further view of Krishnamurthy et al. (USP 6,665,872). Claim 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Aharoni et al. (USP 6,014,694) in view of Kukic (US Published Application No. 2003/0169780) in further view of Laksono et al. (US Published Application No. 2003/0046704).

Claims 3-9 depend from independent claim 1 and claims 11-15 and 17-22 depend from independent claim 10. In view of the clear distinction between the primary reference to Aharoni et al. and independent claims 1 and 10, for at least the reasons cited above, all dependent claims 3-9 and 11-15 and 17-22 patentably distinguish over the art of record. None of the Shang, Krishnamurthy et al. or Laksono et al., references, nor any combination thereof cure the deficiencies of the Aharoni et al. patent.

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**Conclusion**

In view of the foregoing, applicants solicit entry of this amendment and allowance of the claims. If the Examiner cannot take such action, the Examiner should contact the applicant's attorney at (609) 734-6820 to arrange a mutually convenient date and time for a telephonic interview.

No fees are believed due with regard to this Amendment. Please charge any fee or credit any overpayment to Deposit Account No. 07-0832.

Respectfully submitted,  
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